

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stephen Poellot	Team: Team # 8	CCRB Case #: 200603129	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 03/11/2006 9:45 PM	Location of Incident: In front of § 87(2)(b) (corner of § 87(2)(b) and Rockaway Avenue)	Precinct: 73	18 Mo. SOL 9/11/2007	EO SOL 9/11/2007	
Date/Time CV Reported Sat, 03/11/2006 10:40 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Sat, 03/11/2006 10:40 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. DT3 Christop Castle	92814	928041	NARCBBN
3. SGT Roy Bocina	00579	917315	NARCBBN
4. DT3 Ronald Bannister	90574	905754	NARCBBN
5. DT3 Virgil Cumberbatch	05766	897278	NARCBBN
6. DT3 Angelo Cuozzo	91858	918580	NARCBBN
7. DT3 Edwin Galan	90629	906293	NARCBBN
8. DT3 Patrick Cherry	92667	926676	NARCBBN
9. POM Jared Morrissey	08350	925784	NARCBBN
10. LT Patrick Ryan	00000	904977	NARCBBN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Adrian Weber	01972	915011	NARCBBN
2. POM UC #1211	1211	000000	NARCBBN

Officer(s)	Allegation	Investigator Recommendation
A.SGT Roy Bocina	Force: Sgt. Roy Bocina used physical force against § 87(2)(b)	§ 87(2)(b)
B.DT3 Christop Castle	Force: Det. Christop Castle used physical force against § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
C.LT Patrick Ryan	Force: Lt. Patrick Ryan used physical force against § 87(2)(b)	
D.DT3 Ronald Bannister	Force: Det. Ronald Bannister used physical force against § 87(2)(b)	
E.DT3 Virgil Cumberbatch	Force: Det. Virgil Cumberbatch used physical force against § 87(2)(b)	
F. Officers	Discourtesy: Officers spoke obscenely and/or rudely to § 87(2)(b)	
G. Officers	Abuse: Officers threatened to arrest § 87(2)(b)	
H.DT3 Patrick Cherry	Force: Det. Patrick Cherry used physical force against § 87(2)(b)	
I.POM Jared Morrissey	Force: PO Jared Morrissey used physical force against § 87(2)(b)	
J.SGT Roy Bocina	Force: Sgt. Roy Bocina used physical force against § 87(2)(b)	
K.DT3 Edwin Galan	Force: Det. Edwin Galan used physical force against § 87(2)(b)	
L.DT3 Angelo Cuzzo	Force: Det. Angelo Cuzzo used physical force against § 87(2)(b)	
M.SGT Roy Bocina	Abuse: Sgt. Roy Bocina authorized a strip-search of § 87(2)(b) and § 87(2)(b)	

Synopsis

§ 87(2)(e), § 87(2)(f)

§ 87(2)(b) left the scene and as he was walking away, he observed § 87(2)(b) being beaten by officers, identified as Sgt. Roy Bocina, Det. Christopher Castle, Lt. Patrick Ryan, Det. Ronald Bannister, and Det. Virgil Cumberbatch of Brooklyn North Narcotics (allegations A-E). § 87(2)(b)'s family saw from the window that he was being beaten and ran downstairs. Once downstairs, officers cursed at the family and told them if they came outside the gate they would be "locked up" (allegations F, G). After § 87(2)(b) was apprehended, he was dragged to the prisoner van and thrown in the back (allegations H, I). Officers, identified as Sgt. Bocina, Det. Edwin Galan, and Det. Angelo Cuozzo of Brooklyn North Narcotics, ran to § 87(2)(b) tackled him, and beat him, fracturing his elbow (allegations J-L). At the precinct, both prisoners were strip-searched (allegation M). § 87(2)(b) suffered a large hematoma to his left eye as well as a small laceration to his forehead.

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b)

On 3/11/06 at approximately 10:00 p.m., § 87(2)(b) called 911 and was connected to the Internal Affairs Bureau (encl. 14a-d). He stated that police officers had just beat up his brother, § 87(2)(b) and threw him into a van. He explained that § 87(2)(b) was "bum rushed" by about "thirty [officers]" They knocked him out and his whole face was swollen. Later that night, § 87(2)(b) and § 87(2)(b), an older brother and older sister of § 87(2)(b) called the Internal Affairs Bureau to report what had happened, although neither were witnesses to the incident. Both noted that a second individual, identified by the investigation as § 87(2)(b) was also accosted, beaten, and thrown into the van. § 87(2)(b) another brother of § 87(2)(b) also left a message on the CCRB call processing system stating that officers "rushed" § 87(2)(b) and beat him up (encl. 15a-d). Lastly, § 87(2)(b) called the CCRB on 3/13/06 and gave a similar description of the incident and stating that § 87(2)(b) may have a fractured eye socket.

§ 87(2)(b) a § 87(2)(b)-year-old black male, § 87(2)(b) was interviewed at § 87(2)(b) on 3/30/06 (encl. 17a-c). § 87(2)(b) stands 5'6" tall and weighs 140 pounds. A handwritten statement by § 87(2)(b) (encl. 16) that he gave to § 87(2)(b) was consistent with his statement to the CCRB, below.

On 3/11/06 at approximately 10:00 p.m., a family gathering was taking place at § 87(2)(b)'s apartment at § 87(2)(b). § 87(2)(b) gave § 87(2)(b) a dollar to go to the store across the street and buy him a juice. § 87(2)(b) took § 87(2)(b)'s brown jacket and walked to the store. Asked if he was outside with his jacket on before the incident, § 87(2)(b) said that he hadn't been outside for at least five or six hours before the incident. While § 87(2)(b) was in the living room, less than five minutes after § 87(2)(b) left, he heard his cousins yelling out the window. § 87(2)(b) and several of his brothers' friends were in the living room. § 87(2)(b) was sitting closest to the window and was the first to yell. According to § 87(2)(b) § 87(2)(b) was able to see the initial contact with officers. § 87(2)(b) ran over to the window, looked outside, and saw two plainclothes white or Hispanic male police officers standing on top of him and beating him.

The officers were punching and kicking him in the back of his head. Based on the position of the cars, the officers had come out of a white van. § 87(2)(b) began yelling out of the window, "Get off of him, get off of him." The family all ran downstairs and stood on the front steps yelling, "Get off of him. What did he do?" The officers were yelling, "Don't come out of the gate, don't come out of the gate or

we'll lock everybody up if you come out of the gate.” § 87(2)(b) said that there were so many officers present that he could not say which officer was saying that he would “lock them up.” At this point, everybody in the apartment was standing on the front step yelling at the officers. The family was yelling profanities at the officers and various officers were yelling profanity back. § 87(2)(b) could not recall exactly what was said, or which officers were yelling profanities.

Once § 87(2)(b) made it to the front steps, he saw § 87(2)(b) lying on the ground handcuffed and several officers were still kneeling on top of him. The officers tried to keep the family inside the gate but somehow § 87(2)(b) got outside of the gate. He began yelling, “What are you doing to my brother, you’re beating on him and he has a heart condition.” As he was yelling, he saw that the officers began to grab another individual, identified as § 87(2)(b) and beat him up. § 87(2)(b) could hear the man shouting, “I’m sorry, I’m sorry.” § 87(2)(b) was standing up when the officers approached him and they knocked him to the ground and began punching and kicking him. He could not specify which officers were punching and kicking § 87(2)(b). Meanwhile, officers took § 87(2)(b) to a nearby white van and left him on the floor next to it.

Victim Statements

§ 87(2)(b) a § 87(2)(b)-year-old black male, § 87(2)(b) was interviewed at the CCRB offices on 3/22/06 (encl. 19a-c). § 87(2)(b) stands 5’9” tall and weighs 120 pounds. On an ambulance call report filed on 3/11/06 (encl. 18a), § 87(2)(b) stated, “My eye hurts.” On an emergency physician record (encl. 18b), the context of the injury was listed as unknown and § 87(2)(b) stated that he, “remembers everything he heard but kept eyes closed.” On § 87(2)(b), § 87(2)(b) filed a notice of claim against the City of New York (encl. 20a-c) for false arrest, malicious prosecution, assault, battery, battery committed in performance of a public duty or authority, violation of civil rights, negligence in hiring, retaining, training, instruction, and performance of police officers, and intentional and negligent infliction of emotional distress. The suit claims \$3,000,000 in damages. § 87(2)(b) provided the CCRB with various pictures documenting his injuries (encl. 21a-f). During his CCRB interview on 3/22/06, § 87(2)(b) provided written statements from § 87(2)(b) and § 87(2)(b). He could not provide any additional contact information for § 87(2)(b) or § 87(2)(b).

On 3/11/06 at approximately 10:00 p.m., § 87(2)(b) went to a grocery store across the street from § 87(2)(b). He had one dollar because he was going to buy his brother, § 87(2)(b) a Dutchies cigar. He walked into the store, bought the cigar, and left. He did not speak to anyone on the way to the store and did not speak to anyone other than the clerk inside the store. He left the store and walked back cross Rockaway Avenue to § 87(2)(b). He stopped to talk to his cousin “§ 87(2)(b) identified as § 87(2)(b) and then he began to walk back to the house. § 87(2)(b) was wearing his brother’s brown jacket, which had about four patches from the Air Force on the shoulders. He was also wearing a brown sweater, gray pants that unzip into shorts, and a black hat. As he was about to make it to the house, he felt someone strike his left shoulder from behind and he fell to the ground. He did not hear anyone yell any directions or tell him anything before he was hit.

§ 87(2)(b) explained, “I don’t know if I blacked out then but the next thing I remember is I was laying on my stomach being hit on my back and being punched on my back.” § 87(2)(b) remembered being struck multiple times on the back, but he could not see whether he was being punched or kicked. He was yelling, “I’m a heart attack patient.” He remembered three or four officers punching or kicking him. The four officers were described as a tall slim black male, identified by the investigation as Det. Ronald Bannister, a short heavyset black male, identified by the investigation as Det. Virgil Cumberbatch, a tall slim white male, identified as Det. Christopher Castle, and a short white male. When he looked up he saw three plainclothes police officers, identified as Sgt. Bocina, Det. Edward Galan, and Det. Angelo Cuozzo, grab an individual who had just turned onto § 87(2)(b) from Broadway and begin twisting his arm around his back and punching him. He thought that one black cop and two white cops apprehended this individual. § 87(2)(b) began to tell the officers that he had a bad heart and the officers began to beat him harder. The short heavyset officer picked up and took him into a van where there were several other individuals. § 87(2)(b) was unable to remember any specific punches or kicks by specific officers. § 87(2)(b) never ran away from the officers. Asked if he ever attempted to punch or kick the officers, § 87(2)(b) replied, “My arms are so weak, I got pinched nerves and whatnot, I wouldn’t have the strength, I don’t even have the strength of a ten-year-old, I wouldn’t even have a chance with one of those cops.”

on the ground. There were about twenty officers in total, but only four were beating § 87(2)(b). The other sixteen officers were, “Standing around, looking around, looking on the ground, trying to look for drugs, looking in other peoples faces and trying to see who else they could beat up I guess.” The officers were punching § 87(2)(b) throwing him around on the ground, shaking him, and kicking him. One of the officers was a white male standing about 5’6” tall, thick and short, bald with a goatee. Another officer was a white male about 5’7” tall with black hair, a goatee, and a bigger build. A third officer was a white male about 6’3” and slim with short blond hair and gray eyes. A fourth officer was also a white male, although § 87(2)(b) could not describe him. Two male black officers held § 87(2)(b) after the initial four officers left. § 87(2)(b) had never seen § 87(2)(b) prior to this incident and did not know who he was. He denied knowing anyone in § 87(2)(b)’s family or interacting with anyone from his family earlier that day. § 87(2)(b) said that he did not know that the individuals were officers so he stood and started to watch the beating.

§ 87(2)(b) explained, “The next thing you know, they looked up at me and four or five cops bum-rushed me, threw me to the ground, and went to work on my body.” The officers never said anything or gave § 87(2)(b) any instructions before they threw him to the ground. § 87(2)(b) said that the officers must have thought that the officers thought he was going to run. When asked if he started to run from the officers, he said, “I didn’t have a chance to do nothing. I didn’t have a chance to even sneeze.” The tall officer made first contact with § 87(2)(b). All four of the officers stomped on him, punched him, and kicked him. He felt his punches on his head and other parts of his body. The tall officer was able to handcuff him. His face was pressed against several pieces of concrete that were laying on the sidewalk. He was handcuffed and the officers continued to beat him. The officers began searching his pockets and § 87(2)(b) said that he did not have any drugs. One of the officers said, “Shut up, shut up, just mace him and get it over with.” However, he was not pepper sprayed. The short bald officer grabbed him by the ankle and started dragging him across the broken concrete towards a van, cutting his face. The tall officer went to lift him up and when he picked him up forcefully by his handcuffs, his arm “popped.” People began yelling, “Why are you still doing that?” After hearing the people yell, the tall officer took his face and “smashed it into a steel gate.” When asked specifically how his elbow was fractured, § 87(2)(b) explained, “Because my arm was behind my back, and he took me and yanked me up and slammed me into a steel gate...I heard the snap.” § 87(2)(b) and § 87(2)(b) were then put in the back of a prisoner van. A result of this incident, he had abrasions to his face from being dragged on the ground, his jaw had to be re-set because he was punched in it, and his elbow was fractured. When they were brought to the precinct, the sergeant said that they needed medical attention and they were taken to § 87(2)(b), where § 87(2)(b) was told that his elbow had been fractured. According to § 87(2)(b) PO Banner, identified as Det. Bannister, told § 87(2)(b) later that the officers were wrong to beat them. Internal Affairs took pictures of his injuries at the hospital. § 87(2)(b) was charged with § 87(2)(b). He pled guilty to § 87(2)(b).

On 5/23/06, § 87(2)(b) was shown photographs of potential subject officers (encl. 25a-u). § 87(2)(b) was presented with single photographs of the narcotics team identified from the tactical plan for the 73rd Precinct module of Brooklyn North Narcotics. Det. Adrian Weber, Det. Galan, Det. Patrick, PO Jared Morrissey, Det. Christopher Castle, Sgt. Roy Bocina, Det. Angelo Cuzzo, Det. Virgil Cumberbatch, and Det. Ronald Bannister were pictured in the photographs in the above order. A photograph of Lt. Ryan was not shown because he was not yet identified. § 87(2)(b) said that Det. Christopher Castle “was the officer who cuffed him and fractured his elbow.” He said, “that’s just how he looks.” However, after examining the photograph more carefully, he changed his mind and said, “Honestly speaking, it resembles him, but that’s not him.” § 87(2)(b) explained that the photo of Det. Christopher Castle appears to be a photograph of a Hispanic male whereas the officer who handcuffed him was a white male. § 87(2)(b) said that Det. Cumberbatch was present at the incident and took him to the hospital along with “Officer Banner” (presumably Det. Bannister). Det. Cumberbatch stopped the other officers from pepper-spraying § 87(2)(b).

Results of Investigation

Witness Statements

§ 87(2)(b)
§ 87(2)(b) a § 87(2)(b)-year-old black female, § 87(2)(b), was interviewed at § 87(2)(b) on 3/30/06 (encl. 27a-c). A handwritten statement by § 87(2)(b) (encl. 26) that she gave to § 87(2)(b) was consistent with her statement to the CCRB, below. § 87(2)(g)
§ 87(2)(b) who stated that she was the first member of the family down the stairs, remembered seeing heavysset black male officer in plainclothes, identified as Det. Ronald Bannister, and three other plainclothes officers, identified as Det. Castle, Sgt. Bocina, and Lt. Ryan, on top of § 87(2)(b). She did not see any of the officers strike § 87(2)(b) but he appeared to be injured and have a swollen face. She did not recall the officers using any profanity or threatening to arrest any members of the family.

§ 87(2)(b)
§ 87(2)(b) an § 87(2)(b)-year-old black male, § 87(2)(b), was interviewed at § 87(2)(b) in Brooklyn on 3/30/06 (encl. 28a-c).
On 3/11/06 at approximately 10:00 p.m., § 87(2)(b) was playing football outside with his friend § 87(2)(b) and a few other friends. § 87(2)(b) known as § 87(2)(b) was coming from the store on the corner of § 87(2)(b) and Rockaway Avenue. § 87(2)(b) did not see § 87(2)(b) speak to anyone outside the store. He came back from the store with a dollar and did not have a bag with him. He stopped to talk to § 87(2)(b) on the steps in front of § 87(2)(b). A gray four-door sedan coming from the direction of Rockaway Avenue pulled up next to him. Three or four white male officers in plainclothes got out of the car. One of the officers, identified as Sgt. Bocina, hit § 87(2)(b) from behind by grabbing the top of his shirt and throwing him to the ground. When the officers got out of the car, they ran directly to § 87(2)(b) and did not tell him anything before hitting him. § 87(2)(b) was facing the doorway and did not see the officers coming. § 87(2)(b) backed further up the steps towards the door. § 87(2)(b) began to yell that he had a heart problem. The officers told him to “shut up” and all of the officers from the car began to punch and kick him in his back and the back of his head. § 87(2)(b) was not moving and did not try to get away or fight the officers. § 87(2)(b)'s family came downstairs shortly after the officers arrived. When the family came downstairs, the officers told them to go inside and § 87(2)(b) immediately ran upstairs.

§ 87(2)(b)
§ 87(2)(b) a § 87(2)(b)-old black male, § 87(2)(b), was interviewed at § 87(2)(b) in Brooklyn on 3/30/06 (encl. 29a-c).
On 3/11/06 at approximately 10:00 p.m., § 87(2)(b) was playing football outside with his friend § 87(2)(b) and a few other friends. He was about five houses away from § 87(2)(b) when he noticed that his uncle, § 87(2)(b) was getting beat up by plainclothes police officers. § 87(2)(b) did not realize that the people were police officers until after the incident was over. There were about eight to ten officers in plainclothes and all of them were punching and kicking § 87(2)(b) although he could not describe them specifically. He could hear § 87(2)(b) yelling, “Stop, I’ve got heart problems,” and he heard the officers telling § 87(2)(b) to “shut up.” § 87(2)(b) ran back towards § 87(2)(b) ran around § 87(2)(b) and the plainclothes officers, and stood on the stairs next to his family who had come downstairs. Once he was on the steps, he saw one of the officers pick up § 87(2)(b) from the ground by his neck with his hand around his throat. He was told by a cousin on the steps to go upstairs and § 87(2)(b) ran upstairs to the window. From the window he saw an officer grab § 87(2)(b) and drag him to a white van. He also saw another individual, identified as § 87(2)(b) farther up the block get beat up by the same officers. The officers twisted § 87(2)(b)'s arm behind his back.

§ 87(2)(b)
§ 87(2)(b) a § 87(2)(b)-year-old black male, § 87(2)(b), was interviewed at § 87(2)(b) on 3/30/06 (encl. 31a-c). A handwritten statement by § 87(2)(b) (encl. 30) that he gave to § 87(2)(b) § 87(2)(g)

§ 87(2)(g) Like § 87(2)(b) § 87(2)(b) did not recall any officers using any profanity or threatening to arrest the family. Although from the window he saw two plainclothes officers punching and kicking § 87(2)(b) they were not punching and kicking him when he arrived downstairs.

§ 87(2)(b)
§ 87(2)(b) a § 87(2)(b)-year-old black male § 87(2)(b)
§ 87(2)(b), was interviewed by the CCRB at his home on 5/23/06 (encl. 32a-l).

On 3/11/06 at 9:45 p.m., § 87(2)(b) was standing outside of a grocery store located below his apartment at the corner of Rockaway Avenue and § 87(2)(b). A white van pulled across the street from the liquor store and two white males began “tussling” with an individual, identified as § 87(2)(b) further up the block. § 87(2)(b) only heard the doors of the van close and two officers running. § 87(2)(b) went closer to the scene to get a better look. However, he stopped and began to “pull back” because the officers started “coming at everyone.” § 87(2)(b) once approached § 87(2)(b) after the incident to speak about the incident. According to § 87(2)(b) “He was trying to find me one time to ask me, ‘Did I see him getting beat up?’ But I’m not going to lie and be like, ‘Yeah, I seen you get beat up,’ and you know, I didn’t want to do that. You know, he wanted me to lie, but I’m like, no I’m not going to lie. I seen what I seen and I seen what I happened.” When § 87(2)(b) saw § 87(2)(b) he was standing up and the officers were “ready to handcuff him.” § 87(2)(b) was not dragged across the ground. He explained, “But by the time they had him it was just like, you know, everybody is screaming and all this, then they just grabbed § 87(2)(b) out of nowhere.” § 87(2)(b) said that the crowd was not too close to the officers because they were scared of the police. The officers did not tell anyone to get back. He did not recall any profanity but said that everyone was screaming so he was not sure.

He then saw different officers grab his friend, § 87(2)(b) who is known to § 87(2)(b) only as “§ 87(2)(b). He did not see § 87(2)(b) in the street prior to the incident. He did not believe that § 87(2)(b) agreed to buy drugs for anyone because § 87(2)(b) does not take drugs. § 87(2)(b) does not go by the name “§ 87(2)(b) although his brother does. § 87(2)(b) spoke to § 87(2)(b) since the incident and determined that he had him confused with his brother because they look similar. The officer who grabbed § 87(2)(b) was about 6’3” tall, with reddish blond hair and a stocky build. The second officer was about 5’8” with a heavyset build and a shaven head. § 87(2)(b) did not observe any other vehicles pull up or anyone else who appeared to be a police officer. When the officers grabbed § 87(2)(b) they used such force that it scared § 87(2)(b) and he said that he was ready to “haul ass in the house.” The officers said to § 87(2)(b) “Yo, get the hell over here. Get down, put your hands behind your back.”

§ 87(2)(b) did not get down and appeared to be “in shock.” § 87(2)(b) was near the liquor store, about seven feet away from § 87(2)(b). The officers grabbed him and started walking with him. § 87(2)(b) was walking on his own volition. The officers then “smashed” § 87(2)(b) against the gated fence of a vacant lot. The officers began to grab his arms and “crank them back.” He was then handcuffed. The struggle was “very quick.” § 87(2)(b) was not punched, kicked, or thrown to the ground. He explained, “There wasn’t no reason to put him on the ground because as soon as he hit that gate he was like [sighs mournfully]. The tall officer was “doing all the grabbing on the arms. He kept doing what he gotta do. And I don’t mean that in a good way. I mean in a bad way.” § 87(2)(b) did not try to resist the officers, punch them, or kick them. He did not try to run away. However, § 87(2)(b) said that he was only 5’6” tall. They started to push him and ask him his name. § 87(2)(b) was “tossed” against the fence on § 87(2)(b) and Rockaway Avenue. The two officers kept trying to get § 87(2)(b)’s hands behind his back. They placed two individuals in the back of a prisoner van. § 87(2)(b) did not see § 87(2)(b) dragged to the ground.

§ 87(2)(b) was presented with single photographs of the narcotics team identified from the tactical plan for the 73rd Precinct module of Brooklyn North Narcotics. Det. Cuozzo, Det. Castle, PO Morrissey, Det. Bannister, Sgt. Bocina, Det. Cumberbatch, Det. Galan, Det. Cherry, and Det. Weber were pictured in the above order. A photograph of Lt. Ryan was not shown because he was not yet identified. § 87(2)(b) said that Det. Christopher Castle resembled the officer who apprehended § 87(2)(b). He was sixty percent sure that he was the officer. He said that PO Jared Morrissey’s ears and shoulders looked familiar but he did not believe that PO Morrissey was the officer. He did not recognize any of the other officers.

Attempts to Locate Civilian Witnesses

On 3/30/06, a canvass of the location was conducted but did not result in any additional witnesses. On 4/13/06, § 87(2)(b), who was arrested by the narcotics team earlier that day, was contacted. He said that while he saw the injuries that § 87(2)(b) and § 87(2)(b) sustained—§ 87(2)(b) had a swollen face and § 87(2)(b) said his arm was broken—he did not witness the incident because the van did not have any windows. Further, interviews with Det. Cherry and PO Morrissey, who were working in the prisoner van, confirmed that the van does not have any windows and prisoners are not able to see outside. On 4/18/06, § 87(2)(b) was contacted and asked if he had any contact information for § 87(2)(b) and he said that he would attempt to obtain contact information that week. On 4/20/06, a letter was sent to § 87(2)(b). On 4/25/06, a message was left for § 87(2)(b) and letters were sent to § 87(2)(b) and § 87(2)(b). Additionally, the phone number listed on the IAB log for § 87(2)(b) was contacted, but a female answered and said that she did not know a § 87(2)(b) or anyone by the name of § 87(2)(b). On 4/26/06, § 87(2)(b) was contacted and a message was left for § 87(2)(b) also did not have contact information for § 87(2)(b). On 5/1/06, § 87(2)(b) contacted the CCRB and said that neither § 87(2)(b) nor § 87(2)(b) would be willing to “come forward” and speak to the CCRB. § 87(2)(b) also said that he had not seen the white-haired Puerto Rican individual who he said had witnessed the incident. On 5/8/06, § 87(2)(b) was contacted and said that he had spoken to § 87(2)(b) who told § 87(2)(b) that he did not witness the incident and did not get involved. § 87(2)(b) did not have any additional contact information for § 87(2)(b) § 87(2)(b).

Police Officer Statements

§ 87(2)(e), §
87(2)(f)

§ 87(2)(e), § 87(2)(f)

[REDACTED]

Det. Adrian Weber

Det. Adrian Weber of Narcotics Borough Brooklyn North was interviewed at the CCRB on 6/1/06 (encl. 55a-b). On 3/11/06, § 87(2)(b) worked from 3:45 p.m. until 12:00 a.m. as the ghosting officer of a narcotics buy-and-bust team. He was working on foot. He did not have any memo book entries regarding this incident.

§ 87(2)(e), § 87(2)(f)

[REDACTED]

[REDACTED] He did not observe the apprehension or assist in arrest processing. Det. Weber did not observe any force being used, any profanity, any threats of arrest, or strip searches.

Sergeant Roy Bocina

Sergeant Roy Bocina of the Narcotics Borough Brooklyn North was interviewed at the CCRB on 5/25/06 (encl. 41a-c). On 3/11/06, Sgt. Bocina worked from 3:25 p.m. until 12:00 a.m. as the team leader of a narcotics buy-and-bust team. He worked overtime until 9:00 a.m. the following morning. He was dressed in plainclothes and assigned to an unmarked gray Dodge Durango. He was driving with PO Castle and Lt. Ryan. He had the following memo book entries (encl. 40a-c) regarding this incident: "9:45 p.m.: 2 under, corner of § 87(2)(b) and Rockaway Avenue. § 87(2)(b) "

At 9:45 p.m. on 3/11/06, Sgt. Bocina was working on a buy-and-bust operation with his narcotics field team. § 87(2)(e), § 87(2)(f)

[REDACTED]

§ 87(2)(b) was walking at a high rate of speed towards a house, identified as § 87(2)(b). When the car pulled near the location, Sgt. Bocina threw his radio on the dashboard and ran towards § 87(2)(b). He yelled, "Police, put your hands behind your back" as he touched him. § 87(2)(b) turned around and started to try to run out of the house. Sgt. Bocina grabbed him and § 87(2)(b) s forward motion as he was fleeing brought him to the ground. Referring to a photograph taken, Sgt. Bocina explained that the front gate of the house was open and the struggle took place on the front steps. He fell to the ground right outside the ground in front of the steps. No other force was used to bring him to the ground.

When § 87(2)(b) fell to the ground, Det. Castle and Lt. Ryan were approaching. § 87(2)(b) fell face first into the ground and was on his stomach. He explained, "Normally when people fall they hold

§ 87(2)(a) 160.50

OLBS arrest reports (encl. 35c-f) contain similar statements. Property vouchers (encl. 36a-d) indicate that a ziplock bag containing of marijuana was recovered from § 87(2)(b) along with a blue Gameboy Advance and six keys. From § 87(2)(b) twenty-three dollars and twenty dollars of pre-recorded buy money were recovered. A buy money report (encl. 37) contains copies of the pre-recorded buy money. § 87(2)(a) 160.50

§ 87(2)(b)'s criminal court complaint (encl. 38b-c) states that he committed petit larceny, attempted grand larceny in the fourth degree, § 87(2)(a) 160.50 at 9:40 p.m. At 9:45 p.m., § 87(2)(b) committed criminal possession of stolen property and resisting arrest.

Lt. Patrick Ryan

Lt. Patrick Ryan of Narcotics Borough Brooklyn North was interviewed at the CCRB on 6/30/06 (encl. 43a-b). On 3/11/06, Lt. Ryan worked from 2:00 p.m. until 10:00 p.m. in the sergeant's auto of a narcotics buy-and-bust team. He was working in plainclothes and driving in a gray Dodge Durango with Det. Castle and Sgt. Bocina. He did not have any memo book entries (encl. 42a-b) regarding this incident. His initial description of the incident was consistent with Det. Castle's and Sgt. Bocina's statements. Lt. Ryan's statement was consistent with the statements made by Sgt. Bocina and Det. Castle.

Det. Patrick Cherry

Det. Patrick Cherry of the Narcotics Borough Brooklyn North was interviewed at the CCRB on 6/6/06 (encl. 52a-b). On 3/11/06, Det. Cherry worked from 6:00 p.m. until 2:00 a.m. in the prisoner van of a narcotics buy-and-bust team with his partner, PO Jared Morrissey. He was dressed in plainclothes and assigned to a white Ford Econoline cargo van. He did not have any memo book entries regarding this incident.

§ 87(2)(e), § 87(2)(f)

The description of the two individuals was put over the radio. They were the last officers to arrive on the scene. When Det. Cherry arrived, Sgt. Bocina and two other officers had an individual, identified as § 87(2)(b) under arrest just west of the corner of Rockaway Avenue and § 87(2)(b). § 87(2)(b) was rear handcuffed and one officer had each arm. When Det. Cherry got out of the van, § 87(2)(b) was "not cooperative in walking to the van." He "seemed to be conscious and alert" and did not seem to be injured. He was not saying anything. He was dragging his feet and a large crowd had started to form. As Det. Cherry was walking § 87(2)(b) to the back of the prisoner van, the "second half of the attempted robbery," identified as § 87(2)(b) was seen on the corner of Rockaway Avenue and § 87(2)(b). He did not observe any additional force used against § 87(2)(b) or § 87(2)(b). Neither prisoner was "thrown into the van."

Det. Cherry put § 87(2)(b) in the back of the prisoner van as a crowd began to form on the north side of § 87(2)(b) just west of Rockaway Avenue. Det. Cherry explained, "About thirty people wanted to ask the same question separately." The kept saying, "You can't do this, why are you doing this? He didn't do anything. Why are you looking him up? Where are you taking them?" Det. Cherry said that he was "too busy with what I was doing" so he did not answer any questions. At that point, § 87(2)(b) was brought over to the van. Det. Cherry did not witness § 87(2)(b)'s apprehension. He explained, "When I took possession of the first prisoner, I went to go put him in the van. I looked over my shoulder, they were approaching the second subject. As I was getting him in the van—because you had to lift him up and put him in because he was not getting in on his own accord. At that point when I got him in I turned back and they were walking towards me with the second prisoner rear handcuffed." § 87(2)(b) was being verbally uncooperative, saying "You can't lock me up, what are you locking me up for? Who the hell are you?" § 87(2)(b) did not seem physically resistive once he was handcuffed. When § 87(2)(b) and § 87(2)(b) were put in the prisoner van, there were already three prisoners in the back. Prisoners cannot see outside because there are no windows and there is a cage that is blocking the front seats.

Because the crowd was getting "a little angry that their questions weren't being answered immediately," the decision was made to move away from the location and "take care of the administrative

recall § 87(2)(b) punching or kicking anyone. The ground was covered in construction debris and garbage including loose concrete and wood. § 87(2)(b) was not punched or kicked by any officers and no force was used against him once he was handcuffed. § 87(2)(b) did not scream in pain and did not recall any elbow injury to § 87(2)(b) and was not sure how it would have happened. § 87(2)(b) was not “yanked” on his handcuffs.

Det. Galan was “not sure” if § 87(2)(b) was injured and he did not complain of any injuries. § 87(2)(b) walked with Det. Galan to the prisoner van and walked on his own. He was not sure if § 87(2)(b) was injured. § 87(2)(b) was walked to the prisoner van and seemed compliant. Det. Galan did not observe any injuries on § 87(2)(b) and § 87(2)(b) did not complain of any injuries. Det. Galan was not injured and was not sure if the sergeant was injured. Det. Galan usually assists in arrest processing and sometimes assist in searching upon the sergeant’s authorization. He did not recall if the prisoners were strip-searched that night.

Det. Angelo Cuozzo

Det. Angelo Cuozzo of Narcotics Borough Brooklyn North was interviewed at the CCRB on 6/23/06 (encl. 45a-b). On 3/11/06, Det. Cuozzo worked from 3:33 p.m. until 12:00 a.m. in a chase auto of a narcotics buy-and-bust team. He was working in plainclothes in an black Trailblazer with Det. Galan. He had the following memo book entries (encl. 44a-b) regarding this incident: “9:45 p.m.: Two under, § 87(2)(b) and Rockaway Avenue, § 87(2)(b).” § 87(2)(g) He did not “pay attention” to § 87(2)(b)s apprehension. His description of the force used against § 87(2)(b) is consistent with the descriptions given by Sgt. Bocina and Det. Galan.

Det. Virgil Cumberbatch

Det. Virgil Cumberbatch of Narcotics Borough Brooklyn North was interviewed at the CCRB on 6/15/06 encl. 50a-b). On 3/11/06, Det. Cumberbatch worked from 3:45 p.m. until 12:00 a.m. in a chase auto of a narcotics buy-and-bust team. He was working in plainclothes in an unmarked car. He did not have any memo book entries (encl. 48a-b) regarding this incident. A medical treatment of prisoner form (encl. 49) filled out by Det. Cumberbatch indicates that § 87(2)(b) was treated for an elbow fracture.

At 9:45 p.m. on 3/11/06, Det. Cumberbatch was assigned to the chase car in a narcotics buy-and-bust team when he heard a distress call go over the radio. Det. Cumberbatch was not sure who transmitted the call and the call said only, “Rockaway and § 87(2)(b) “Rockaway and § 87(2)(b) He responded to the location of the call. Det. Cumberbatch was the driver of the vehicle and was approaching the location while driving northbound on Rockaway Avenue. When he arrived on the scene, he observed officers trying to arrest an individual, identified as § 87(2)(b) § 87(2)(b) was “struggling, giving resistance to the officers.” He was resisting verbally by yelling, “Get the fuck off me, get the fuck off me,” and physically by swinging his arms. A crowd began to move towards the officers and Det. Cumberbatch and Det. Bannister asked the crowd to move back. The crowd was proceeding eastbound on § 87(2)(b) towards Rockaway Avenue. Det. Cumberbatch said “he didn’t pay much attention” to the apprehension because he was focused on keeping the crowd back. Although there were other members of the team on the scene, he was not sure who had responded at this point. The officers were attempting to apprehend § 87(2)(b) but Det. Cumberbatch said he only “glanced” at the officers doing so. He did not observe any punching or kicking by the officers or § 87(2)(b) Det. Cumberbatch did not use any force against the individuals.

Det. Cumberbatch stated that two individuals were apprehended at the scene. However, he could not be sure when exactly the second individual, identified as § 87(2)(b) was apprehended. He did not witness § 87(2)(b)s apprehension. The crowd was yelling, “Get the fuck off him, he didn’t do anything.” When Det. Cumberbatch approached the crowd he yelled, “Please stay back, please stay back.” Det. Cumberbatch was not sure if any individuals ran past him and there were people “all around him.” However, he said that the “most hostile” crowd was in front of him. He did not tell anyone that they could be arrested or use any profanity. § 87(2)(b) and § 87(2)(b) were placed into the prisoner van by other officers and the team left.

At the 73rd Precinct, Det. Cumberbatch assisted in the arrest paperwork and he did not recall assisting in a strip search. Det. Cumberbatch escorted § 87(2)(b) to the hospital. The entire way to the hospital, § 87(2)(b) was “cursing [Det. Cumberbatch] out.” There was no conversation about how he was apprehended or the force used. He took him to § 87(2)(b) The individual was treated

with x-rays and he was not sure of what the results of the medical examination was because he was switched to escorting § 87(2)(b) to Central Booking. § 87(2)(b) had some type of eye injury. When Det. Cumberbatch escorted § 87(2)(b) to Central Booking, § 87(2)(b) also cursed Det. Cumberbatch out. Det. Cumberbatch was not sure how either injury was caused.

Det. Ronald Bannister

Det. Ronald Bannister of Narcotics Borough Brooklyn North was interviewed at the CCRB on 6/15/06 (encl. 51a-b). On 3/11/06, Det. Bannister worked from 3:45 p.m. until 12:00 a.m. in a chase auto of a narcotics buy-and-bust team. He was working in plainclothes in an unmarked car with Det. Cumberbatch. He did not have any memo book entries regarding this incident. His statement to the CCRB was consistent with Det. Cumberbatch's statement.

Medical Documents

An Ambulance Call Report (ACR) (encl. 59h-j) filed on 3/11/06 indicated that § 87(2)(b) had pain and swelling to his eye. The ACR states, "According to Police Department, patient received injury running from the police. Patient fell, resulting in injury to eye." § 87(2)(b) had ecchymosis (bruise) and hematoma (swelling) but no bleeding to his eye. He denied loss of consciousness, shortness of breath, bleeding, nausea, vomiting, blurred vision, chest pain and headache. His chief complaint was, "My eye hurts." Other than the injury to his eye, he did not have any other injuries.

§ 87(2)(b)'s emergency nursing record (encl. 59o-s) indicated left eye swelling and a left eye hematoma. The physician's order's sheet indicates that at 1:35 a.m., § 87(2)(b) was administered ASA (325 mg) and morphine through an IV.

In § 87(2)(b)'s emergency physician record (encl. 59s-nn), dated § 87(2)(b), in the section "Context" the doctor circled "struck with object(s)" and wrote "? Unknown, Patient remembers everything he heard but kept eyes closed." The record indicated that he had chest pain and a skin laceration. His social history indicated recent alcohol use and cocaine use in the last month. The physical exam indicated that § 87(2)(b) had a periorbital hematoma and left lateral subconjunctival hemorrhage." He also had a small laceration above his eye. X-rays indicated no acute fractures or bleeding. The faculty notes by § 87(2)(b) read, "§ year-old male with history of coronary artery disease/myocardial infarction, § 87(2)(b) cocaine use presents in NYPD custody with head trauma and left eye ecchymosis." The record notes that § 87(2)(b) had atypical chest pain.

Additional medical records from § 87(2)(b) (encl. 60a-g) indicate that a CAT scan of § 87(2)(b)'s head found no evidence of intracerebral hemorrhage, mass or infarction. There was a slight encephalomalacia (a type of swelling of the brain) involving the medial aspect of the right occipital lobe but no evidence of fractures.

The ACR for § 87(2)(b) (encl. 61j-l) indicated that he complained of pain to his right elbow and upon examination possible swelling, bleeding, and deformities were found. § 87(2)(b) refused to state how the injury happened. He denied any loss of consciousness, dizziness, vomiting, back, and neck pain. It was indicated that he had possible recent alcohol use. The rest of § 87(2)(b) is "unremarkable."

Medical records from § 87(2)(b) (encl. 61a-cc) for § 87(2)(b) indicate that an orthopaedic fracture inpatient consult, completed by § 87(2)(b), found that § 87(2)(b) suffered a non-displaced coronoid fracture and was administered a sling, pain medication, and needed to attend the fracture clinic. The emergency physician record indicates swelling to the right side of his head and abrasions to the right side of his face.

Medical records from the New York City Corrections Department (encl. 62a-ll) confirm that § 87(2)(b) had a fractured elbow. Specifically, there is a displaced fracture of the coronoid process that is probably acute. He was prescribed Motrin and a splint was applied. There are no statements by § 87(2)(b) found in the Department of Corrections medical records.

Police Documents

A copy of the 911 recordings and radio messages (encl. 63a-d) indicates that § 87(2)(b) calls 911, states that § 87(2)(b) was "beat up for no reason." § 87(2)(b) states he has heart problems and was thrown in a van. He is then connected to the Internal Affairs Bureau. Eight minutes after the initial call, the 911 operator states that an individual wants to make a complaint against police officers at § 87(2)(b). An unidentified officer responds on the radio, "Call him back and tell him to bring

his ass into the damn precinct... motherfucker.” Approximately twenty-three minutes later, the 73rd Precinct sergeant says that the disposition is a 10-95 (non-crime referred) and the complainant would be going to the precinct.

An arrest photograph of § 87(2)(b) (encl. 64a-b) shows that he is wearing a sling on his right arm and has a large blotch on the right side of his face. A request for an arrest photograph of § 87(2)(b) turned up negative (encl. 73a-cc). Polaroid photographs (encl. 64c-d) from the command are too grainy to recognize any injuries.

A tactical plan for Brooklyn North Narcotics 73-1 module (encl. 65) indicates that Sgt. Bocina and Det. Castle were driving a gray Dodge. Det. Bannister and Det. Cumberbatch were working as Team 1 (a catch car) and driving a tan Nissan Maxima. Det. Cuozzo and Det. Galan were driving a black Chevrolet Trailblazer and were assigned to Team 2 (also a catch car). Det. Cherry and PO Morrissey were working in the prisoner van, a white Ford. § 87(2)(e), § 87(2)(f) Under setup locations, § 87(2)(e), approximately two blocks from the incident, is a known crack location.

A roll call for Brooklyn North Narcotics (encl. 66a-b) indicates that Lt. Ryan, Sgt. Bocina, Det. Cumberbatch, Det. Bannister, Det. Castle, Det. Cherry, Det. Cuozzo, Det. Galan, and PO Morrissey were working on 3/11/06.

A command log for the 73rd Precinct (encl. 67) indicates that § 87(2)(b) and § 87(2)(b) were arrested at § 87(2)(b) and Rockaway Avenue. Their condition was apparently normal and the top charge is § 87(2)(a) 160.50 for § 87(2)(b) and § 87(2)(a) 160.50 for § 87(2)(b). The command log indicates that a strip search of § 87(2)(b) and § 87(2)(b) was conducted.

Disposition of 3/11/06 Arrest

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer Histories

This is § 87(2)(b) s, § 87(2)(b) s, § 87(2)(b) s, and § 87(2)(b) s first complaint with the CCRB (encl. 9, 10, 11a-b). § 87(2)(b) made a prior CCRB complaint, § 87(2)(b)

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Lt. Patrick Ryan has no substantiated complaints during his twelve-year tenure with the NYPD (encl. 4). Sgt. Bocina has no substantiated allegations during his nine-year tenure with the NYPD (encl. 2a-b). Det. Castle has no substantiated allegations during his five-year tenure with the NYPD (encl. 3). Det. Galan has one prior substantiated CCRB allegation of a frisk and/or search in CCRB case number 200305958 (encl. 5). He received a command discipline A. He has a twelve-year tenure with the NYPD. PO Morrissey has two prior substantiated CCRB allegations for Discourtesy: Word and Discourtesy: Action in CCRB case number 200204574 (encl. 6). He received a command discipline A. He has a six-year tenure with the NYPD. Det. Cherry has no prior substantiated complaints in his five-year tenure with the CCRB (encl. 7). Det. Angelo Cuozzo has no prior CCRB complaints during his nine-year tenure with the NYPD (encl. 8).

Conclusions and Recommendations

Officer Identification

According to § 87(2)(b) three or four officers punched and kicked him while he was on the ground. The four officers were described as a tall slim black male, identified by the investigation as Det. Ronald Bannister, a short heavysset black male, identified by the investigation as Det. Virgil Cumberbatch, a tall slim white male, identified as Det. Christopher Castle, and a short white male, presumably Sgt. Bocina or Lt. Ryan. § 87(2)(g)

§ 87(2)(b) and § 87(2)(b) all arrived downstairs after the officers had stopped allegedly punching and kicking § 87(2)(b) § 87(2)(b) did see an officer, identified as Det. Bannister, on top of § 87(2)(b) although she did not witness him using any additional force. When § 87(2)(b) and § 87(2)(b) looked onto the street from the apartment window they saw white or Hispanic male officers in plainclothes.

The officers consistently maintained that Sgt. Bocina, Det. Castle, and Lt. Ryan were the only officers to physically restrain § 87(2)(b) § 87(2)(g)

Det. Cherry and PO Morrissey were assigned to the prisoner van and indicated to the CCRB that they transported § 87(2)(b) to the prisoner van, § 87(2)(g)

§ 87(2)(b) who witnessed § 87(2)(b)'s apprehension, described a white male standing about 5'6" tall with a "thick build," bald, and with a goatee as well as a white male standing 5'7" tall with black hair, a goatee, and a bigger build. A third officer was a white male about 6'3" and slim with short blond hair and gray eyes. He said that the three officers who were beating § 87(2)(b) eventually stopped, ran to where he was, tackled him, and began beating him. According to the officers, Sgt. Bocina, Det. Galan, and Det. Cuozzo effected the arrest of § 87(2)(b) Det. Galan is 5'6" tall, Det. Cuozzo stands 5'10" tall and has a moustache, and Sgt. Bocina stands 5'7" tall. Although Det. Galan and Sgt. Bocina have short crew-cut hair, none of the white male officers on the team are bald. When shown photographs, § 87(2)(b) picked Det. Castle out and indicated that he looked like the tall officer who picked him up by his handcuffs, fracturing his elbow. However, § 87(2)(b) changed his mind, stating that Det. Castle was not the officer, partially because he appeared to be Hispanic in the photograph and § 87(2)(b) remembered a white officer (Det. Castle is white). He did not recognize any other officers. All of the officers maintain that the only three officers who apprehended § 87(2)(b) were Sgt. Bocina, Det. Galan, and Det. Cuozzo.

In both § 87(2)(b)'s version and the officers version, the three officers who leave from the vicinity of § 87(2)(b)'s apprehension and approach § 87(2)(b) commit all of the force alleged. § 87(2)(g)

§ 87(2)(g)

Undisputed Facts

§ 87(2)(e), § 87(2)(f)

Officers from Brooklyn North Narcotics then apprehended § 87(2)(b) as walked towards his home at § 87(2)(b) § 87(2)(b)'s family observed this happening and ran downstairs, asking the officers what had happened. The officers tried to keep them inside the gate. After § 87(2)(b) was handcuffed and brought to the prisoner van, the officers noticed § 87(2)(b) further down on § 87(2)(b) They approached and apprehended § 87(2)(b) who had to be apprehended using physical force. After they were taken to the 73rd Precinct, both were taken to § 87(2)(b) to be treated for injuries.

Assessment of Evidence

§ 87(2)(e), § 87(2)(f)

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

When the officers approached § 87(2)(b) it is undisputed that he was entering the gate to § 87(2)(b). While § 87(2)(b) and § 87(2)(b) stated that the officers said nothing before contacting § 87(2)(b) Sgt. Bocina said that he said “Police” as he went to put his arm on his back § 87(2)(g).

It is undisputed that when Sgt. Bocina grabbed § 87(2)(b) he was taken to the ground and hit his head. Once he was on the ground, § 87(2)(b)'s family states that they saw officers standing on top of him, punching and kicking him. § 87(2)(b) himself claims that he blacked out, although he also gave description of four officers who he said punched and kicked him. § 87(2)(b) told the emergency room doctor that he closed his eyes did not see how his eye became injured. § 87(2)(g)

Further, while § 87(2)(b)'s family observed from the § 87(2)(b) floor, by the time they got downstairs, they stated that no more punching or kicking was taking place. The medical records do not indicate any injuries other than the injury to § 87(2)(b)'s eye. § 87(2)(b) who did not witness § 87(2)(b)'s apprehension, said that § 87(2)(b) approached him after the incident and asked him to make a statement even though he did not see what happened. § 87(2)(g)

§ 87(2)(g)

The § 87(2)(b) family and Det. Cherry both remember § 87(2)(b) having difficulty walking to the prisoner van. While § 87(2)(b) indicates that he was physically unable to, Det. Cherry portrayed § 87(2)(b) as deliberately being uncooperative. § 87(2)(b) alleged that he was thrown into the van, whereas Det. Cherry, who admitted that § 87(2)(b) had to be forcibly brought to the van, did not describe any problem getting him to enter the van. Det. Cherry mentioned that one of the prisoners, although he could not remember which one, had his face on the floor when they were taken out of the van to be searched. Likewise, PO Morrissey said that § 87(2)(b) was uncooperative when he was being taken out of the van at the precinct and refused to leave the van on his own volition. § 87(2)(b), who was in the prisoner van when § 87(2)(b) was brought inside, did not indicate that § 87(2)(b) was thrown into the van and only stated that § 87(2)(b) complained of being “beat up.” However, PO Morrissey and Det. Castle, who also assisted in transporting § 87(2)(b) to the prisoner van, said that he walked on his own and was compliant.

§ 87(2)(g)

It is undisputed that three police officers, identified as Sgt. Bocina, Det. Galan, and Det. Cuozzo, approached § 87(2)(b). While § 87(2)(b) alleges that he was “rushed” and taken to the ground without warning, Sgt. Bocina stated that he announced himself when he approached and physically contacted § 87(2)(b) § 87(2)(g)

[REDACTED]

[REDACTED]

§ 87(2)(e), § 87(2)(f), § 87(2)(g)

[REDACTED]

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may have come downstairs with bats. § 87(2)(g)

§ 87(2)(b) In the administrative case, *NYPD v Woods* (Disciplinary case number 78518/03), the judge stated that although the department does not condone the use of profanity, “This court has held that the use of profanity in intense street enforcement is not a disciplinary offense” (encl. 1f-h). Examples of “intense street enforcement” include telling a woman suspected of carrying a gun to “shut the fuck up” and “put her fucking hands behind her back” and telling a belligerent subject who was causing a crowd to gather to “shut the fuck up.” § 87(2)(g)

Allegation H: PO Jared Morrissey used physical force against § 87(2)(b)

Allegation I: Det. Patrick Cherry used physical force against § 87(2)(b)

§ 87(2)(b) and his family allege that he was thrown into the prisoner van. § 87(2)(b) says that he hit his head when he was thrown into the back of the van and hit his head on the floor. Det. Cherry confirmed that § 87(2)(b) had difficulty walking to the prisoner van. While § 87(2)(b) indicates that he was physically unable to, Det. Cherry portrayed § 87(2)(b) as deliberately being uncooperative. However, PO Morrissey and Det. Castle said that § 87(2)(b) was able to walk on his own to the van and all of the officers denied throwing him in the back. However, PO Morrissey said that § 87(2)(b) was uncooperative when he was being taken out of the van at the precinct and refused to leave the van on his own volition. § 87(2)(b), who was in the prisoner van when § 87(2)(b) was brought inside, did not indicate that § 87(2)(b) was thrown into the van and only stated that § 87(2)(b) complained of being “beat up.” § 87(2)(g)

Allegation J: Sgt. Roy Bocina used physical force against § 87(2)(b)

Allegation K: Det. Edwin Galan used physical force against § 87(2)(b)

Allegation L: Det. Angelo Cuozzo used physical force against § 87(2)(b)

§ 87(2)(b) alleges that when Sgt. Bocina, Det. Galan, and Det. Cuozzo approached him they immediately threw him to the ground and began punching and kicking him. Once he was handcuffed, an officer dragged him on the ground, causing abrasions to his face, and yanked his handcuffs, fracturing his elbow. According to the officers, § 87(2)(b) put Sgt. Bocina in a chokehold, then § 87(2)(b) and the officers fell into a fence and then onto the ground before handcuffing § 87(2)(b). § 87(2)(b) who witnessed the apprehension, said that the officers threw § 87(2)(b) into the fence and did not see § 87(2)(b) resisting or putting Sgt. Bocina in a chokehold. The medical records indicate that § 87(2)(b) fractured his elbow as a result of this incident and his arrest photo and medical records indicate abrasions to the face. § 87(2)(g)

§ 87(2)(b) The officers did not recall a “popping” sound, scream by § 87(2)(b) or give an account of how § 87(2)(b)'s elbow might have been fractured. § 87(2)(b) did not see § 87(2)(b) being dragged across the ground or yanked up by his handcuffs. All of the officers, including Det. Cherry who stated that § 87(2)(b) was physically uncooperative while walking to the prisoner van, indicated that § 87(2)(b) was physically cooperative with the officers once handcuffed, although he was verbally combative. § 87(2)(g)

Allegation M: Sgt. Roy Bocina authorized a strip search of § 87(2)(b) and § 87(2)(b)

Sgt. Bocina and the prisoner van officers, Det. Cherry and PO Morrissey, stated that strip searches of both prisoners were conducted and the 73rd Precinct command log documents that a strip search was performed. Patrol Guide Procedure 208-05 states that, “A strip-search will be utilized when the arresting officer reasonably suspects that weapons, contraband or evidence may be concealed upon the person or in

clothing in such a manner that they may not be discovered by the previous search methods” (encl. 1i-j).

§ 87(2)(g)

[REDACTED]

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: